

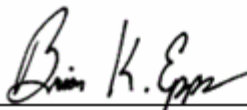
IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
DUBLIN DIVISION

| | | |
|---------------------------|---|------------|
| TORRON JONES, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | CV 315-050 |
| |) | |
| JIMMY CHAUNCEY, Sergeant, |) | |
| |) | |
| Defendant. |) | |

ORDER

Plaintiff, an inmate at Dodge State Prison in Chester, Georgia, commenced the above-captioned case pursuant to 42 U.S.C. § 1983, and he is proceeding *pro se* and *in forma pauperis*. The matter is now before the Court on Plaintiff's motion to voluntarily dismiss his case. (Doc. no. 15.) As Defendant has not filed an answer or a motion for summary judgment,¹ according to Fed. R. Civ. P. 41(a)(1)(A)(i), Plaintiff may dismiss his case without an Order from the Court. Therefore, the Clerk is **DIRECTED** to **DISMISS** this civil action without prejudice and terminate all pending motions.

SO ORDERED this 2nd day of October, 2015, at Augusta, Georgia.



BRIAN K. EPPS
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA

¹Defendant has filed a motion to dismiss in which he argues Plaintiff did not exhaust available administrative remedies prior to filing this lawsuit. (Doc. no. 10-1, pp. 5-6.) However, for purposes of Rule 41, this pre-answer motion does not qualify as "an answer or motion for summary judgment." Nix v. Fulton Lodge No. 2 of the Int'l Ass'n of Machinists & Aerospace Workers, 452 F.2d 794, 797-98 (5th Cir. 1971.) Plaintiff's response to Defendant's motion was to concede the exhaustion issue and file the present motion to voluntarily dismiss his case.